

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE: MERIDIAN SHEET METAL,  
INC.,  
Debtor.

Case No. 14-12258 SAH  
Chapter 7

**TRUSTEE'S MOTION TO SELL PROPERTY OF THE ESTATE FREE AND  
CLEAR OF LIENS, CLAIMS AND OTHER INTERESTS; BRIEF IN SUPPORT;  
NOTICE OF OPPORTUNITY FOR HEARING AND NOTICE OF HEARING IF A  
RESPONSE IS FILED**

L. Win Holbrook, trustee of this case ("Trustee"), files this motion pursuant to 11 U.S.C. § 363(f) and Bankruptcy Rule 6004 to sell property of this bankruptcy estate free and clear of liens, claims and other interests. In support of the relief requested the Trustee would show the court the following:

**JURISDICTION AND VENUE**

1. This court has jurisdiction to hear and determine this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This Motion concerns the administration of Debtors' bankruptcy estate and therefore is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A) and (O).

2. Venue is proper in this court pursuant to 28 U.S.C. §§ 1408 and 1409.

**STATEMENT OF FACTS**

3. On May 29, 2014 the Debtor filed a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code (Doc.#1)("Petition Date").

4. On December 17, 2014 the Office of the United States Trustee filed its second motion to convert this case from Chapter 11 to Chapter 7 or in the alternative to dismiss this case (Doc.#94). On December 19, 2014 the United States of America on behalf of the Internal

Revenue Service also filed a motion to dismiss this case or, in the alternative, to convert the case from Chapter 11 to Chapter 7 (Doc.#95). (Together referred to as “Conversion Motions”).

5. On February 10, 2015 the Conversion Motions came on for hearing at which time the parties announced an agreement had been reached to convert this case to one under Chapter 7. On February 11, 2015 the order converting the case was entered (Doc.#111). Also on February 11, 2015 L. Win Holbrook was appointed Chapter 7 trustee (Doc.#113).

6. Assets of the bankruptcy estate consist of vehicles, manufacturing equipment, inventory, materials, office furniture, fixtures and other personal property utilized in the Debtor’s business (“Property”).

7. All of the Property is subject to liens of the Internal Revenue Service, the Oklahoma Employment Security Commission and Oklahoma County Treasurer, which liens far exceed the value of the Property.

8. Contemporaneously with the filing of this Notice the Trustee is filing a Notice of Intent to Sell the Property at public auction to be conducted on April 15, 2015.

9. The Trustee proposes that such sale be free and clear of any and all liens, claims and other interests of any entity (including without limitation the above referenced entities) with the provision that all liens, claims, and other interests attach to the sale proceeds.

### **BRIEF IN SUPPORT**

Section 363(b)(1) of the Bankruptcy Code provides that a trustee “after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). A sale of assets outside the ordinary course of business is a matter within the court’s discretion, giving due consideration to the sound business judgment of

the proponent of the sale. *In re Continental Airlines, Inc.*, 780 F.2d 1223 (5th Cir. 1986); *In re Lionel Corp.*, 722 F.2d 1063 (2nd Cir. 1983).

Pursuant to 11 U.S.C. § 363, property of a bankruptcy estate may be sold free and clear of any interest in such property of an entity other than the estate only if certain criteria are established.<sup>1</sup> The criteria as set forth in section 363(f) are in the disjunctive; it is only necessary to satisfy one of the criteria. *In re Elliott*, 94 B.R.343 (E.D.Pa.1988). Moreover, “it has long been recognized that the bankruptcy court has the power to authorize the sale of property free of liens with the liens attaching to the proceeds, without the consent of the lienholder.” 3 Lawrence P. King, *Collier on Bankruptcy*, ¶ 363.05[6], 363-42 to 43 (15<sup>th</sup> ed. rev. 1998).

In the case herein the Trustee has discussed the sale free and clear of liens with the attorney for the Internal Revenue Service and has been advised that the IRS consents to the sale free and clear. The Trustee further believes the other referenced secured creditors consent to the sale free and clear of their interests, provided the liens attach to the sale proceeds.

WHEREFORE, the Trustee requests that the Court enter an order (i) permitting the sale of the above described Property pursuant to 11 U.S.C. § 363, free and clear of all liens, claims and other interests; (ii) providing that the liens of Internal Revenue Service, the Oklahoma Employment Security Commission and Oklahoma County Treasurer, and any other creditor

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<sup>1</sup> “The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if-

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.”

11 U.S.C. § 363(f).

asserting a valid lien affecting the Property, attach to the sales proceeds; and (iii) grant the Trustee such other and further relief as is just, equitable and appropriate.

**NOTICE OF OPPORTUNITY FOR HEARING**

**Your rights may be affected. You should read this document carefully and consult with your attorney about your rights and the effect of this document.** If you do not want the Court to grant the motion, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 21 days from the date of filing of the motion. You should also serve a file-stamped copy of your response or objection to the undersigned [and others who are required to be served] and file a certificate of service with the Court. A hearing on the motion has been set for April 1, 2015, at 9:30 A. M., before the Honorable Sarah Hall, in the 9<sup>th</sup> Floor Courtroom. 215 Dean A. McGee Avenue, Oklahoma City, Oklahoma 73102. If no response is timely filed, the Court may grant the motion without further notice.

**[Note – this is a flat twenty-one (21) days regardless of the manner of service.]**

**NOTICE OF HEARING  
(TO BE HELD IF A RESPONSE IS FILED)**

**Notice is hereby given that if a response to the Motion to Sell Free and Clear of Liens, Claims and Other Interests is filed, the hearing on the matter will be held on April 1, 2015, at 9:30 A. M. in the 9<sup>th</sup> Floor courtroom of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, Oklahoma 73102. If no response is timely filed and the Court grants the requested relief prior to the above-referenced hearing date, the hearing will be stricken from the docket of the Court.**

s/ L. Win Holbrook

L. Win Holbrook, Trustee, OBA #4284  
100 North Broadway, Suite 3300  
Oklahoma City, OK 73102  
Telephone: (405) 235-8735  
wholbrook@andrewsdavis.com

**CERTIFICATE OF SERVICE**

This is to certify that, in addition to those served electronically by the ECF System, on the 5<sup>th</sup> day of March, 2015 a file-stamped copy of this pleading was forwarded by U.S. Mail, first class, postage prepaid, to all entities on the matrix attached to the original of this pleading and to the following:

Meridian Sheet Metal, Inc.  
2805 South Purdue  
Oklahoma City, OK 73128

Kenneth Lee Peacher  
4101 Perimeter Center Dr., Suite 200  
Oklahoma City, OK 73112

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Internal Revenue Service  
1919 SMITH STREET  
M/S 5024 HOU  
Houston, TX 77002

Kay Sewell  
Assistant United States Attorney  
Suite 400  
210 Park Avenue  
Oklahoma City, OK 73102

Oklahoma Employment Security Commission  
OESC-Legal Department  
PO Box 53039  
Oklahoma City, OK 73152-3039

Forrest "Butch" Freeman  
Oklahoma County Treasurer  
320 Robert S. Kerr, Room 307  
Oklahoma City, OK 73102

Gretchen Crawford  
Assistant District Attorney  
320 Robert S. Kerr, Suite 505  
Oklahoma City, OK 73102

OFFICE OF THE UNITED STATES  
TRUSTEE  
215 Dean A. McGee Avenue, 4th Floor  
Oklahoma City, OK 73102

s/ L. Win Holbrook

L. Win Holbrook, Trustee, OBA #4284

Label Matrix for local noticing  
1087-5  
Case 14-12258  
Western District of Oklahoma  
Oklahoma City  
Tue Mar 3 14:08:47 CST 2015

AGS SECURITY  
P O BOX 650867  
DALLAS TX 75265-0867

BENECO  
C/O U S DEPARTMENT OF LABOR  
525 S GRIFFIN ST STE #900  
DALLAS TX 75202-5042

Belger Cartage Service, Incorporated  
c/o B. Jack Smith  
Works & Lentz, Inc.  
1437 S Boulder - Ste 900  
Tulsa, OK 74119-3631

CONCENTRA  
238 QUANDRUM DR  
OKLAHOMA CITY OK 73108-1101

DPS  
P O Box 5578  
Edmond OK 73083-5578

FIVE STAR EQUIPMENT  
P O BOX 30153  
EDMOND OK 73003-0003

Federal Services LLC  
210 E Main  
Oklahoma City OK 73104

GILL REPROGRAPHICS  
7001 N SANTA FE  
OKLAHOMA CITY OK 73116-9059

(p)CITIBANK  
PO BOX 790034  
ST LOUIS MO 63179-0034

3 MINES TECHNOLOGIES  
PO BOX 371  
SHREVEPORT LA 71162-0371

AM Supply Co  
P O Box 271265  
Oklahoma City OK 73137-1265

BLUE CROSS & BLUE SHIELD  
P O BOX 731428  
DALLAS TX 75373-1428

CITY OF OKLAHOMA CITY  
P O BOX 26570  
OKLAHOMA CITY OK 73126-0570

CST Co  
P O Box 224768  
Dallas TX 75222-4768

Engineered Equipment Inc.  
P O Box 960248  
Oklahoma City OK 73112

Fastenal  
3110 S Meridian  
Oklahoma City OK 73119-1023

Ferguson Enterprises, Inc.  
c/o Charles R. Swartz  
Robinett Law Firm  
624 S. Boston Ave., Ste. 900  
Tulsa, Oklahoma 74119-1238

GRAINGER  
DEPT 807806310  
P O BOX 419267  
KANSAS CITY MO 64141-6267

HOUSTON SPECIALTY INSURANCE COMPANY  
BANK DIRECT CAPITAL FINANCE  
P O BOX 660448  
DALLAS TX 75266-0448

AFCO  
P O BOX 4795  
CAROL STREAM IL 60197-4795

AT&T Advertising Solution  
c/o McCarthy Burgess & Wolff  
2600 Cannon Rd  
Bedford OH 44146

Belger Cartage Service  
P O Box 534  
Bedford Park IL 60499-0534

COMP SOURCE OKLAHOMA  
P O BOX 269021  
OKLAHOMA CITY OK 73126-9021

Gretchen Crawford  
Assistant District Attorney  
Oklahoma County Treasurer  
320 Robert S. Kerr, Suite 505  
Oklahoma City, OK 73102-3412

Engineered Systems & Energy Solutions  
P O Box 18428  
Oklahoma City OK 73154-0428

Federal Corporation  
P O Box 2600  
Oklahoma City OK 73101-2600

Filtration Services Group  
43655 Utica Rd  
Sterling Heights MI 48314-2359

HEALTHPLAN SERVICES  
P O BOX 30102  
TAMPA FL 33630-3102

Health Extras  
Alliant Services Houston Inc  
P O Box 1069  
Rockville MD 20849-1069

EXHIBIT A  
PG 1 of 4 PGS

~~L. Win Holbrook~~  
~~Andrew Davis~~  
~~100 North Broadway Suite 3300~~  
~~Oklahoma City, OK 73102~~

Hunzicker  
P O Box 25248  
Oklahoma City OK 73125-0248

Internal Revenue Service  
Special Procedures Branch  
55 N Robinson Stop 5024  
Oklahoma City OK 73102-9229

Ira's Tire Shop  
301 S Hudson  
Oklahoma City OK 73109-5050

LA King  
P O Box 2415  
Tulsa OK 74101-2415

Latham Stall Wagner Seele & Lehman  
10441 S Regal Blvd., #200  
Tulsa OK 74133-7192

Logical Building Solutions Inc  
3432 Lakeside Dr  
Oklahoma City OK 73179-8428

MERIDIAN SHEET METAL, INC. RETIREMENT SAVING  
EMPLOYEE BENEFITS SECURITY ADMINISTRATIO  
U.S. DEPT. OF LABOR  
ATTN. INVESTIGATOR LUIS VELEZ  
525 S. GRIFFIN STREET, ROOM 900  
Dallas, TX 75202-5042

MORRISON SUPPLY COMPANY  
P O BOX 70  
FORT WORTH TX 76101-0070

Meridian Sheet Metal, Inc.  
2805 South Purdue Dr  
Oklahoma City, OK 73128-5804

Midwest Insulation & Material Co  
38 NE 48th St  
Oklahoma City OK 73105-2019

Morrison Supply Company LLC  
Po Box 70  
Forth Worth, TX 76101-0070

National American Ins. Co.  
1010 Manvel Ave  
Chandler OK 74834-3854

Robert C Newark III  
Oklahoma Employment Security Commission  
PO Box 53039  
Oklahoma City, OK 73152-3039

ORSC  
P O BOX 52004  
OKLAHOMA CITY OK 73152-2004

OG & E  
P O BOX 24990  
OKLAHOMA CITY OK 73124-0990

OKLAHOMA COUNTY TREASURER  
P O BOX 268875  
OKLAHOMA CITY OK 73126-8875

OKLAHOMA TAX COMMISSION OFFICE  
OF THE GENERAL COUNSEL  
120 N. ROBINSON, SUITE 2000W  
OKLAHOMA CITY OK 73102-7801

ONG  
P O BOX 219296  
KANSAS CITY MO 64121-9296

OSHA  
55 N ROBINSON STE 135  
OKLAHOMA CITY OK 73102-9237

Office Depot  
P O Box 630813  
Cincinnati OH

Oklahoma County Treasurer  
320 Robert S Kerr Ave  
Room 307  
Oklahoma City, OK 73102-3441

Oklahoma Employment Security Commission  
PO Box 53039  
Oklahoma City, OK 73152-3039

Oklahoma Employment Security Commission  
Attn: ORSC Legal Dept.  
PO Box 53039  
Oklahoma City OK 73152-3039

PRODUCTION PRODUCTS INC  
30487 POTOMAC WAY  
CHARLOTTE HALL MD 20622-3114

Kenneth Lee Peacher  
4101 Perimeter Center Dr., Suite 200  
Oklahoma City, OK 73112-2312

Pittney Bowes  
2225 American Dr  
Neenah WI 54956-1005

Progressive  
PO Box 105428  
Atlanta GA 30348-5428

QUILL.COM  
P O BOX 37600  
PHILADELPHIA PA 19101-0600

R. L. Williams Co., Inc.  
c/o B. Jack Smith  
Works & Lentz, Inc.  
1437 S Boulder - Ste 900  
Tulsa, OK 74119-3631

EXHIBIT A  
PG 2 of 4 PGS

R.B. Akins Company, an Oklahoma corporation  
7301 Broadway Extension, Suite 200  
Oklahoma City, OK 73116-9038

RAY ALBRIGHT STEEL PRODUCTS INC  
P O BOX 82373  
1600 S MAY  
OKLAHOMA CITY OK 73108-4435

RB Atkins Company  
4425 N Santa Fe Ave  
Oklahoma City OK 73118-8001

RL WILLIAMS  
332 W 33RD ST  
EDMOND OK 73013-3801

ROWLAND EQUIPMENT  
3 VINE ST  
YUKON OK 73099-4011

Richmond North Associates Inc  
P O Box 963  
Buffalo NY 14226-0963

SAFEGUARD  
118 CHURCH RD  
LANSDALE PA 19446

SIEMENS INDUSTRY INC C/O CITIBANK  
P O BOX 2134  
CAROL STREAM IL 60132-2134

SLATER, TENAGLIA, FRITZ & HUNT PA LOCKBOX 24  
P O BOX 8500  
PHILADELPHIA PA 19178-2431

SMITH CARNEY & CO PC  
5100 N BROOKLINE STE#1000  
OKLAHOMA CITY OK 73112-3627

(p)SPRINT NEXTEL CORRESPONDENCE  
ATTN BANKRUPTCY DEPT  
PO BOX 7949  
OVERLAND PARK KS 66207-0949

STANLEY NATIONAL HARDWARE  
19701 DAVINCI  
FOOTHILL RANCH CA 92610-2622

SUNLIFE FINANCIAL  
P O BOX 7247-0381  
PHILADELPHIA PA 19170-0381

Sams Club  
PO Box 530942  
Atlanta GA 30353-0942

Seton  
c/o RMS  
4836 Brecksville Rd  
Richfield OH 44286-9177

Kay Sewell  
Assistant U.S. Attorney  
210 Park Ave., Ste 400  
Oklahoma City, OK 73102-5628

Simplex Grinnell  
Dept CH 10320  
Palatine IL 60055-0320

SimplexGrinnell  
Attn Bankruptcy  
50 Technology Drive  
Westminster MA 01441-0001

Charles Snyder  
United States Trustee  
215 Dean A. McGee Ave. 4th Fl.  
Oklahoma City, OK 73102-3479

Southwest Test and Balance LLC  
200 NW 132nd St  
Oklahoma City OK 73114-2306

TRANE US INC  
3600 PAMMEL CREEK RD  
LA CROSSE WI 54601-7599

Techno Adhesives Inc  
12113 Mosteller Rd  
Cincinnati OH 45241-1591

~~U.S. Trustee~~  
United States Trustee  
215 Dean A. McGee Ave., 4th Floor  
Oklahoma City, OK 73102-3444

UNITED HEALTHCARE  
C/O ALLIED INTERSTATE  
P O BOX 361626  
COLUMBUS OH 43236-1626

UNITED RENTALS  
6125 LAKEVIEW RD STE #300  
CHARLOTTE NC 28269-2616

United States Trustee  
215 Dean A. McGee, Fourth Floor  
Oklahoma City, OK 73102-3444

WORKS & LENTZ INC  
1437 S BOULDER #900  
TULSA OK 74119-3631

West Connections of Oklahoma  
4625 S Rockwell  
Oklahoma City OK 73179-6415

Works & Lenz Inc  
3030 NW Expressway #1300  
Oklahoma City OK 73112-5442

Worth Hydrochem of Oklahoma Inc  
P O Box 6447  
Norman OK 73070-6447

EXHIBIT A  
PG 3 of 4 PGS



Zurich North America  
c/o RMS  
P O Box 4647  
Lutherville Timonium MD 21094-4647

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

HOME DEPOT  
P O BOX 6028  
THE LAKES NV 88901-6028

SPRINT  
P O BOX 219554  
KANSAS CITY MO 64121

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)David T. Greenwell

(d)L. Win Holbrook  
Andrews Davis  
100 North Broadway Suite 3300  
Oklahoma City, OK 73102

(d)L. Win Holbrook  
Andrews Davis  
100 North Broadway Suite 3300  
Oklahoma City, OK 73102

(u)Dennis Maley  
Dennis Maley, CPA, PLC

(d)Oklahoma Employment Security Commission  
PO Box 53039  
Oklahoma City, OK 73152-3039

(u)RL Williams

(u)United States of America (IRS)

End of Label Matrix  
Mailable recipients 90  
Bypassed recipients 7  
Total 97

EXHIBIT A  
PG 4 of 4 PGS